

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

MUR: 5406

DATE COMPLAINT FILED: January 30, 2004

DATE OF NOTIFICATION: February 10, 2004

DATE ACTIVATED: September 27, 2004

EXPIRATION OF SOL: January 1, 2008

COMPLAINANT: Gerald L. Jaecks

RESPONDENTS: Daniel W. Hynes
Hynes for Senate and Jeffrey Wagner, in his official capacity as treasurer
Friends of Dan Hynes and John Sheridan, as chair¹
19th Ward Democratic Organization and Thomas Hynes, as chair
43rd Ward Democratic Party and Peggy Roth, as chair
Friends of Vi Daley and Thomas Moore, as chair
Madison County Democratic Central Committee and
Mac Warfield, as chair
Sangamon County Democratic Central Committee and
Patrick Timoney, as chair
Donald E. Stephens Committeeman's Fund and Bradley Stephens, as chair
Citizens for Hynes
Charles R. Bernardini
Peter Bilecki
Rosemary Bilecki
Vi Daley
Donald E. Stephens

RELEVANT STATUTES: 2 U.S.C. § 434(b)
2 U.S.C. § 441a(a)
2 U.S.C. § 441a(f)
2 U.S.C. § 441b(a)
2 U.S.C. § 441c

¹ The complaint specifically named, as respondents, the chairs of each of the several state committees it named in the complaint. The Office of General Counsel did not generate the treasurers of the state committees as respondents because state treasurers are not generally subject to liability under the Act in their official capacity.

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2 U.S.C. § 441e
2 U.S.C. § 441f
11 C.F.R. § 102.5(b)
11 C.F.R. § 110.3(d)

INTERNAL REPORTS CHECKED: Disclosure Reports; Commission Indices

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

This matter originated with a complaint filed by Gerald L. Jaecks alleging that Hynes for Senate, the principal campaign committee supporting the election of Daniel W. Hynes to the U.S. Senate for Illinois in 2004, violated the Federal Election Campaign Act of 1971, as amended ("the Act") by organizing a "money laundering scheme" whereby nonfederal funds from Mr. Hynes's state committee, Friends of Dan Hynes ("FODH"), were funneled to Hynes for Senate through several conduit state committees. Specifically, the complainant alleges: (1) that FODH made contributions to various state campaign committees contingent upon those committees making reciprocal contributions to Hynes for Senate; and (2) that the state campaign committees made reciprocal contributions to Hynes for Senate with nonfederal funds.

Based on the information set forth in the complaint, the responses, and other available information, we recommend that the Commission find no reason to believe that the respondents violated the Act on these alleged facts. However, the Complaint identifies a direct contribution from FODH to Hynes for Senate. Although the complaint does not make a specific allegation regarding this contribution, we recommend the Commission find reason to believe that FODH and Hynes for Senate violated 11 C.F.R. § 110.3(d) by transferring funds from Mr. Hynes's state committee to his campaign committee for a federal election, but take no further action other than

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1 an admonishment and require disgorgement. In addition, because Hynes for Senate did not
2 disclose this contribution, we recommend the Commission find reason to believe that Hynes for
3 Senate also violated 2 U.S.C. § 434(b), but take no further action other than an admonishment.

4 **II. FACTUAL SUMMARY**

5 **A. BACKGROUND**

6 Daniel Hynes is currently Comptroller of the State of Illinois, an elective position. He
7 was first elected to this position in 1998 and won reelection in 2002. Friends of Dan Hynes
8 ("FODH") is an Illinois state committee established to support Daniel Hynes's candidacy for
9 comptroller and the candidates he supports. In early 2003, Hynes announced that he would run
10 for the U.S. Senate from Illinois. Hynes for Senate is the principal campaign committee for his
11 U.S. Senate campaign.

12 **B. COMPLAINT**

13 The Complainant alleges that Hynes for Senate "arranged donations of unrestricted state
14 campaign funds from its allied Illinois state campaign finance committee, Friends of Dan Hynes,
15 to other Illinois state campaign finance committees which funds were later contributed back to
16 [Hynes for Senate] through the conduits of the recipient Illinois state campaign finance
17 committees (or their principals)" Complaint at 5. The scheme allegedly commenced on January
18 28, 2003, when FODH made \$5,000 contributions to two Illinois state campaign committees --
19 the 19th Ward Democratic Organization ("19th Ward") and the 43rd Ward Democratic
20 Organization ("43rd Ward"). *See id.*

21 Specifically, with respect to the 19th Ward, the Complainant alleges that FODH
22 contributed \$5,000 to the 19th Ward in exchange for: 1) \$10,000 in contributions from Thomas

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1 Hynes, a 19th Ward committeeman and the candidate's father, to Hynes for Senate; 2) a \$1,000
2 contribution from the 19th Ward, to Hynes for Senate; 3) a \$1,000 contribution from Citizens for
3 Hynes,² a state political committee chaired by Thomas Hynes; and 3) a \$1,500 contribution from
4 Peter Bilecki to Hynes for Senate.³ *See id.* The alleged "money laundering scheme" through the
5 43rd Ward operated in a similar fashion. In exchange for a \$5,000 contribution from FODH, the
6 43rd Ward allegedly: 1) contributed \$1,000 to Hynes for Senate; 2) caused Friends of Vi Daley, a
7 separate state committee, to contribute \$1,000 to Hynes for Senate; and 3) caused Charles
8 Bernardini to contribute \$500 to Hynes for Senate.⁴ *See id.*

9 The complaint also alleges that Hynes for Senate accepted nonfederal funds in eight
10 instances from state committees in violation of Sections 441a, 441b, and 441e. These
11 contributions include the \$1,000 from Citizens for Hynes, the \$1,000 from Friends of Vi Daley,
12 the \$1,000 from the 19th Ward, the \$1,000 from the 43rd Ward, as well as a \$1,000 contribution
13 from FODH, a \$1,000 contribution from the Madison County Democrat Central Committee, a
14 \$1,000 contribution from the Sangamon County Democratic Central Committee, and a \$1,000
15 contribution from the Donald E. Stephens Committeeman Fund. The complaint provides no
16 specific factual information to support the allegation that these contributions contained
17 nonfederal funds but states generally that the contributions contained funds contributed by

² The Complainant did not name Citizens for Hynes as a respondent. Based on the allegations in the complaint, this Office notified Citizens for Hynes of the claims against it.

³ Complainant alleges that the 19th Ward funneled \$1,500 to Peter Bilecki through his mother, Rosemary Bilecki, a 19th Ward committeewoman, who received \$1,500 from the 19th Ward on January 1, 2003.

⁴ This Office prepared a complete illustration of the alleged "money laundering scheme," which is attached as Attachment 3.

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1 corporations, federal government contractors, foreign nationals, and contributors who already
2 reached their federal contribution limits. *See id.* at 6.

3 **C. RESPONSES**

4 In their joint response, Daniel Hynes, Hynes for Senate and Jeffrey Wagner, as treasurer,
5 and FODH and John Sheridan, as chair, declare that the allegations they engaged in a “money
6 laundering scheme” are “baseless and in fact false for any number of reasons” and “that all of the
7 contributions in question were made . . . without any consideration of or expectation that any
8 contributions would be routed back to the Campaign.” Hynes Response at 2. In supporting
9 affidavits, Mr. Wagner and Mr. Sheridan both deny the existence of a *quid pro quo* and explain
10 that FODH never made a contribution with the expectation that the recipient would reciprocate
11 by contributing to Hynes for Senate. *See id.* at Exs. 1-2.

12 In addition, the other respondents who allegedly participated in the “money laundering
13 scheme” deny the allegations in the complaint. More particularly, Thomas Hynes asserts that he
14 made personal contributions to Hynes for Senate in support of his son’s candidacy, rather than in
15 exchange for contributions FODH made to the 19th Ward. *See* 19th Ward Response, at 3.
16 Rosemary Bilecki, a 19th Ward committeewoman, denies receiving \$1,500 from the 19th Ward
17 with the expectation that she give the money to her son to contribute to Hynes for Senate, but
18 rather claims she received \$1,500 semi-annually from the 19th Ward as compensation for her
19 activities as committeewoman and that her son, Peter Bilecki, personally contributed \$1,500 to
20 Hynes for Senate to support his long-time friend. *See id.*, at 2. Furthermore, with the exception
21 of Charles Bernardini, a *pro se* respondent who claims to have no knowledge of a scheme to
22 violate the Act, all of the respondents who contributed funds to Hynes for Senate provide

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1 affidavits supporting the contentions in their respective responses and specifically and
2 unequivocally denying that their contributions to Hynes for Senate were contingent upon receipt
3 of contributions from FODH.

4 With respect to the allegation that Hynes for Senate accepted contributions made with
5 nonfederal funds, the Hynes Response claims that "the uncontroverted evidence clearly shows
6 that the contributions were entirely legal." Hynes Response, at 3. In their affidavits, Mr.
7 Sheridan explicitly states that FODH had sufficient federal funds to make its \$1,000 contribution
8 to Hynes for Senate, and Mr. Wagner claims that to his knowledge all political organizations that
9 contributed to Hynes for Senate had sufficient federal funds to make such contributions. *See id.*

10 All but one of the other alleged participants in this portion of the scheme deny violating
11 the Act by contributing nonfederal funds to Hynes for Senate. The 19th Ward, the 43rd Ward,
12 Citizens for Hynes, Friends of Vi Daley, the Madison County Democratic Central Committee,
13 and the Sangamon County Democratic Central Committee all claim they had sufficient federal
14 funds subject to the Act to make a \$1,000 contribution to Hynes for Senate. All of these
15 statements are supported by affidavits. The joint response of Donald Stephens, the Donald E.
16 Stephens Committeeman Fund, and Bradley Stephens, as chair, states that none of them had
17 knowledge of a scheme to violate the Act by donating nonfederal funds to a political committee,
18 but makes no representation that the Fund had sufficient federal funds to donate \$1,000 to Hynes
19 for Senate. *See Committeeman Response at 1-2.* The Committeeman Response did not include
20 any supporting affidavits.

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III. LEGAL ANALYSIS

A. CONTRIBUTIONS ALLEGEDLY MADE IN THE NAME OF ANOTHER

Based on the evidence available, it does not appear that any of the respondents participated in a "money laundering scheme" to make contributions in the name of another, in violation of 2 U.S.C. § 441f.

In support of its allegation, the complaint does no more than list a series of contributions between respondents that on their face appear permissible. From these facts alone, the Complainant speculates that FODH and Hynes for Senate engineered an impermissible scheme to launder FODH funds through various state committees to Hynes for Senate. As demonstrated by the following charts, however, there is nothing—including the timing or amount of the contributions—that indicates that any of these contributions were made as part of a scheme to make contributions in the name of another

Contributions Made by Friends of Dan Hynes		
Recipient	Date	Amount
19 th Ward Democratic Organization	1/28/2003	\$5,000
43rd Ward Democratic Organization	1/28/2003	\$5,000

Alleged Reciprocal Contribution to Hynes for Senate		
Contributor	Date	Amount
19 th Ward Democratic Organization	3/31/2003	\$1,000
Thomas Hynes	2/14/2003	\$2,000
Thomas Hynes	3/27/2003	\$2,000
Citizens for Hynes	3/31/2003	\$1,000
Thomas Hynes	6/30/2003	\$6,000
Peter Bilecki	3/31/2003	\$1,500
43rd Ward Democratic Organization	3/31/2003	\$1,000
Friends of Vi Daley	9/19/2003	\$1,000
Charles Bernardini	9/8/2003	\$500

Without additional information, the Complaint lacks a "sufficiently specific allegation" to warrant an investigation. See MUR 5304 (Cardoza for Congress) (contributions from state committees to federal committee of differing amounts spread over many months insufficient to

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1 find reason to believe 2 U.S.C. § 441f violation occurred). Moreover, and as noted, the vast
2 majority of the respondents specifically denied in sworn statements that they participated in a
3 scheme to indirectly route contributions to Hynes for Senate.

4 Given the specific denials and the lack of factual support presented in the complaint, this
5 Office recommends that the Commission find no reason to believe that the following respondents
6 violated 2 U.S.C. § 441f by making or knowingly receiving contributions in the name of another:
7 Daniel Hynes, Hynes for Senate and Jeffrey Wagner, in his official capacity as treasurer, Friends
8 of Dan Hynes, Citizens for Hynes, the 19th Ward Democratic Organization, the 43rd Ward
9 Democratic Party, Vi Daley, or Friends of Vi Daley. Furthermore, this Office recommends that
10 the Commission dismiss the complaint with respect to the following state committee chairs
11 because there is no information indicating that any of them violated the Act: John Sheridan,
12 Thomas Hynes, Peggy Roth, and Thomas Moore.

13 **B. CONTRIBUTIONS ALLEGEDLY MADE BY COMMITTEES WITH**
14 **INSUFFICIENT FEDERAL FUNDS**

15 The complaint does not provide any factual basis for its assertion that certain respondents
16 made contributions to Hynes for Senate using impermissible funds from corporations, unions,
17 foreign nationals, federal government contractors, and individuals who already reached their
18 contribution limits. Moreover, available information indicates that the state committees that
19 contributed to Hynes for Senate maintained sufficient federal funds to make the contributions.

20 Under Commission regulations, local party organizations and organizations that are not
21 political committees under the Act may make contributions to federal committees but they must
22 be able to demonstrate through reasonable accounting methods that any contribution to the

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1 federal committee was made with funds raised subject to the limitations and prohibitions of the
2 Act. *See* 11 C.F.R. §§ 102.5(b)(1) and 102.5(b)(2)(ii).

3 In this case, all but two of the state campaign finance committees and local party
4 committees filed disclosure reports with the Illinois State Board of Elections that demonstrate
5 that they had sufficient federal funds to make their respective contributions to Hynes for Senate.
6 *See* Illinois State Board of Elections. Both of the exceptions, the 43rd Ward and Citizens for
7 Hynes, did not file disclosure reports with sufficient detail to determine whether or not the
8 committees had sufficient federal funds on the date of their respective contribution to contribute
9 \$1,000 to Hynes for Senate. In both cases, however, the committees provided affidavits from
10 their chairs stating that the committee had sufficient federal funds to make the contribution. *See*
11 Affidavit of Peggy Roth (attached to 43rd Ward Response), Affidavit of Dennis Kasper (attached
12 to the Citizens for Hynes Response).

13 Accordingly, this Office recommends that the Commission find no reason to believe that
14 Hynes for Senate or Jeffrey Wagner, in his official capacity as treasurer, violated 2 U.S.C.
15 §§ 441a(f), 441b(a), or 441e(a) by knowingly accepting excessive contributions, corporate
16 contributions, or contributions from foreign nationals. This Office also recommends that the
17 Commission find no reason to believe that Friends of Dan Hynes, Citizens for Hynes, the 19th
18 Ward Democratic Organization, the 43rd Ward Democratic Party, Vi Daley, Friends of Vi Daley,
19 the Madison County Democrat Central Committee, the Sangamon County Democratic Central
20 Committee, Donald E. Stephens, or the Donald E. Stephens Committeeman Fund, violated
21 2 U.S.C. §§ 441a(a), 441b(a), 441c(a), or 441e(a) by contributing nonfederal funds to a federal
22 committee. In addition, this Office recommends that the Commission dismiss the complaint with

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1 respect to the following state committee chairs because there is no information indicating that
2 any of them violated the Act: Patrick Timoney, John Sheridan, Thomas Hynes, Peggy Roth,
3 Thomas Moore, Mac Warfield, or Bradley Stephens.

4 **C. PROHIBITED DIRECT TRANSFER FROM STATE CAMPAIGN**
5 **COMMITTEE TO FEDERAL CAMPAIGN COMMITTEE**

6 Although this Office recommends the Commission find no reason to believe as to the
7 violations specifically alleged in the complaint, the complaint identified a \$1,000 direct
8 contribution from FODH to Hynes for Senate.⁵ 11 C.F.R. § 110.3(d) bans transfers from a
9 candidate's committee for a nonfederal election to the candidate's campaign committee for a
10 federal election.

11 There appears to be no dispute that FODH violated this prohibition.⁶ Therefore, this
12 Office recommends that the Commission find reason to believe that FODH and Hynes for Senate
13 and Jeffrey Wagner, as treasurer, violated 11 C.F.R. § 110.3(d). In addition, according to
14 disclosure reports filed by Hynes for Senate, it does not appear that Hynes for Senate disclosed
15 this contribution to the Commission in accordance with 2 U.S.C. § 434(b)(2). Thus, this Office
16 recommends that the Commission find reason to believe that Hynes for Senate and Jeffrey
17 Wagner, as treasurer, violated 2 U.S.C. § 434(b)(2). Nevertheless, this Office recommends that
18 the Commission take no further action other than issuing admonishment letters and requiring
19 disgorgement, because the dollar amount at issue is relatively small and taking no further action
20 will conserve the Commission's resources. *See, e.g.*, MUR 5304 (Cardoza for Congress)

⁵ The Hynes Response does not address the 11 C.F.R. § 110.3(d) violation implicit in Sheridan's admission that FODH donated \$1,000 directly to Hynes for Senate

⁶ John Sheridan, FODH's chairman, filed an affidavit in support of the joint response of Hynes for Senate, its treasurer, FODH and himself stating that "FODH contributed \$1,000 to Hynes for Senate Exploratory Committee, a federal authorized committee, on or about March 31, 2003." Affidavit of John Sheridan (Attached to Hynes Response)

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(finding reason to believe respondent violated 11 C.F.R. § 110.3(d), but taking no further action given that the respondent disgorged the contribution and the amount in violation, \$1,000, was relatively small).

With respect to Daniel Hynes individually, there is no information in the complaint or otherwise currently available to indicate that Hynes was personally involved in the making of or receipt of this contribution. Therefore, this Office recommends that the Commission find no reason to believe that Daniel Hynes violated 11 C.F.R. § 110.3(d) or 2 U.S.C. § 434(b)(2).

IV. RECOMMENDATIONS

1. Find reason to believe that Friends of Dan Hynes violated 11 C.F.R. § 110.3(d), take no further action and send an admonishment letter;
2. Find reason to believe that Hynes for Senate and Jeffrey C. Wagner, in his official capacity as treasurer, violated 2 U.S.C. § 434(b)(2) and 11 C.F.R. § 110.3(d), take no further action and send an admonishment letter requiring that the committee amend its disclosure reports to reflect receipt of \$1,000 from Friends of Dan Hynes and requiring disgorgement;
3. Find no reason to believe that Daniel W. Hynes violated 2 U.S.C. § 434(b) or 11 C.F.R. § 110.3(d);
4. Find no reason to believe that Daniel W. Hynes, Hynes for Senate and Jeffrey Wagner, in his official capacity as treasurer, Rosemary Bilecki, Peter Bilecki, Charles R. Bernardini, Friends of Dan Hynes, Citizens for Hynes, the 19th Ward Democratic Organization, the 43rd Ward Democratic Party, Vi Daley, or Friends of Vi Daley, violated 2 U.S.C. § 441f;
5. Find no reason to believe that Friends of Dan Hynes, Citizens for Hynes, the 19th Ward Democratic Organization, the 43rd Ward Democratic Party, Vi Daley, Friends of Vi Daley, the Madison County Democrat Central Committee, the Sangamon County Democratic Central Committee, Donald E. Stephens, or the Donald E. Stephens Committeeman Fund, violated 2 U.S.C. §§ 441a(a), 441b(a), 441c(a), or 441e(a);
6. Find no reason to believe that Daniel Hynes or Hynes for Senate and Jeffrey C. Wagner, in his official capacity as treasurer, violated 2 U.S.C. §§ 441a(f), 441b(a), or 441e(a);

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- 7 Dismiss the complaint with respect to the following state committee chairs: John Sheridan, Thomas Hynes, Peggy Roth, Thomas Moore, Mac Warfield, Patrick T. Timoney, and Bradley Stephens;
8. Approve the attached Factual and Legal Analyses;
9. Approve the appropriate letters;
10. Close the file.


Lawrence H. Norton
General Counsel

Lawrence Calvert, Jr.
Deputy Associate General Counsel

1/27/05
Date

BY:


Ann Marie Terzaken
Assistant General Counsel


Adam Schwartz
Attorney

Attachments

- 1) Friends of Daniel Hynes Factual and Legal Analysis
- 2) Hynes for Senate Factual and Legal Analysis
- 3) Chart of Alleged Money Laundering Scheme

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